

1 ROGER K. LITMAN, 57634  
Attorney at Law  
2 Civic Center Square  
2300 Tulare Street, Suite 230  
3 Fresno, California 93721  
Telephone: (559) 237-6000

4 Attorney for Defendant, PAUL WHITMORE

5  
6 UNITED STATES DISTRICT COURT  
7 EASTERN DISTRICT OF CALIFORNIA  
8

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 v.

12 PAUL WHITMORE,

13 Defendant.

CASE NO: CRF-02-5301 OWW

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**STIPULATION AND ORDER  
TO CONTINUE HEARING ON  
DEFENDANT'S MOTION TO  
VACATE FEDERAL CONVICTION**

The parties hereto, by and through their respective attorneys, stipulate and agree that the hearing scheduled for July 23, 2007 be continued until August 6, 2007 at 9:00 a.m. in the above-entitled court.

The parties agree to the following briefing schedule: Defendant Paul Whitmore shall have until July 25, 2007 to file any pleading opposing the government's response to Mr. Whitmore's motion to withdraw his jury trial waiver. The government shall have until August 2, 2007 to submit any pleading opposing or responding to Mr. Whitmore's submission.

It is agreed that the hearing on Mr. Whitmore's motion, as well as sentencing in this matter, should the same become necessary, be continued to August 6, 2007.

This stipulation is necessitated by multiple obligations, including some unexpected, encountered by counsel for Mr. Whitmore. Among other obligations, defense counsel was obligated to put aside work on this case and prepare for trial

1 in the case of *United States v. Jaime Rico*, Case No. 06-00090 after the case was  
2 unexpectedly confirmed for trial when Mr. Rico rejected the government's  
3 settlement offer. The additional time will allow me to effectively represent him at  
4 the hearing, and should it become necessary, at his sentencing.

5 The parties also agree that any delay resulting from this continuance shall  
6 be excluded in the interest of justice pursuant to 18 U.S.C. §§3161(h)(1)(F),  
7 3161(h)(8)(A) and 3161(h)(8)(B)(I).

8 DATED: June 27, 2007

/s/ David Gappa

DAVID GAPPA

Assistant United States Attorney

**This was agreed to by Mr. Gappa  
via telephone, on June 27, 2007**

12 DATED: June 27, 2007

/s/ Roger K. Litman

ROGER K. LITMAN

Attorney for Defendant

PAUL WHITMORE

16 **ORDER**

17 The court having considered the stipulation of the parties and GOOD CAUSE  
18 APPEARING, the court now orders that the sentencing hearing currently scheduled  
19 for July 23, 2007, be continued to August 6, 2007 at 9:00 a.m.  
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21 IT IS SO ORDERED.

22 Dated: July 2, 2007

/s/ Oliver W. Wanger

UNITED STATES DISTRICT JUDGE